

WISHA REGIONAL DIRECTIVE

WISHA Services

Department of Labor and Industries

33.05

FIELD SANITATION & TRANSPORTATION

Date Issued: March 20, 2002

I. Background

WAC 296-307-095 includes requirements for orientation, potable water, handwashing and toilet facilities in agriculture hand-labor operations. The rule “applies to any agricultural employer with one or more employees engaged in any hand-labor operations in the field,” but handwashing and toilet requirements do not apply to employees “engaged in field activities for the production of grains, livestock, or livestock feed” or using “vehicles, machinery, or animals as part of their field activities” who “can transport themselves to and from toilet and handwashing facilities.” This language, found in WAC 296-307-09503, is somewhat different from the language in the parallel standard adopted by the federal Occupational Safety and Health Administration (OSHA).

The specific language of the handwashing and toilet requirements, found in WAC 296-307-09515 and WAC 296-307-09518, requires facilities to be “within one-quarter mile of each employee’s worksite in the field” but allows them to be at the “point of closest vehicular access” if it is not feasible to be within one-quarter mile.

The relationship between the language in these two rules, as well as to the OSHA standard, generates questions regarding the application of the WISHA field sanitation requirements. This WISHA Regional Directive (WRD) has been developed to address such questions.

II. Scope and application

This WISHA Regional Directive (WRD) provides guidance to WISHA enforcement and consultation staff whenever they must determine whether any or all of the field sanitation requirements apply to an agricultural operation. It replaces WRD 92-16A and any other previous guidance, whether formal or informal.

III. Interpretive Guidance

A. Are hand-labor field operations in agriculture ever completely exempt from the field sanitation requirements of WAC 296-307-09503 ?

No. If the work involves hand-labor in the field (agricultural operations performed by hand or with hand tools (WAC 296-307-09506)), the field sanitation requirements apply.

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The exemptions in WAC 296-307-09503 apply only to the specific requirements of WAC 296-307-09515 (handwashing facilities) and of WAC 296-307-09518 (toilet facilities). The requirements of WAC 296-307-09509 (orientation) and WAC 296-307-09512 (potable water sources) remain in force for such employers.

B. If employees use vehicles, machinery, or animals as part of their field activities, is it necessary to determine that it is not feasible to meet WAC 296-307-09515 or WAC 296-307-09518 before claiming exemption (2) in WAC 296-307-09503?

No. Although the OSHA standard requires such a determination, the state standard excludes employers whose employees use vehicles, machinery or animals as part of their field activities from the requirements of WAC 296-307-09515. However, the exemption, properly understood, rarely applies to an entire hand-labor operation.

C. Is the employer exempt whenever he or she provides vehicles that can be used to transport employees to and from toilet and handwashing facilities?

No. The standard does not create an exemption whenever vehicles are available, but only when they are used “as part of” the employee’s field activities. Since hand-labor operations rarely involve the use of a vehicle by every employee as part of the field activities themselves, the exemption rarely applies.

For example, if an employee operates a tractor pulling a trailer onto which employees place hand-picked produce, the employee operating the tractor would be exempt from the strict distance requirements of WAC 296-307-09515 and WAC 296-307-09518. However, since other employees would not be exempt, the employer would need to locate toilet and handwashing facilities within one-quarter mile of their work activity if feasible. The exemption simply allows the tractor operator to drive the tractor more than one-quarter mile away from the toilet and handwashing facilities without placing the employer in violation of the standard and without requiring toilet and handwashing facilities to be placed within one-quarter mile of the tractor operator’s entire route.

D. Does the exemption relieve the employer of all responsibility to provide toilet and handwashing facilities?

No. The exemption in WAC 296-307-09503 allows employees actively using vehicles, equipment or animals as part of hand-labor operations to transport themselves to toilet and handwashing facilities. If they are not able to leave their duties or if such facilities are not “accessible,” the exemption does not apply. “Accessible” is defined by WAC 296-307-09506 as a maximum of five minutes travel time from the worksite. Obviously, the exact distance allowed would depend upon the speed of the vehicle, equipment or animal involved, as well as the terrain over which it would need to travel.

E. Is there a window of time before an employer is required to provide field sanitation?

No. Field sanitation as required by the standard is required beginning with the employees' arrival in the field to conduct hand-labor operations. Unlike the federal OSHA standard, the WISHA standard does not include a time threshold before the standard is triggered.

Approved: _____

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For further information about this or other WISHA Regional Directives, you may contact WISHA Policy & Technical Services at P.O. Box 44648, Olympia, WA 98504-4648 – or by telephone at (360)902-5503. You also may review policy information on the WISHA Website (<http://www.wa.gov/lni/wisha>).